**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**DELAY CONDONATION APPLICATION NO. NIL OF 2002**
**IN**
**GOVERNMENT APPEAL NO.27-D OF 2002**

State of Uttaranchal

... Appellant/Applicant

**Versus**

Gaurab Sharma
S/o R.P. Sharma, Village-Foop
P.S. Foop District Bhind,
M.P. Hall R/o Panchwati Govt-Digri
Maha Vidhyalaya, District-Pithoragarh.

... Respondent

**Dated: June 20, 2007**

**Sri Nandan Arya, learned AGA for the State**
**Sri Lokendra Dobhal, learned counsel for the respondent**

**HON. DHARAM VEER, J.**

The present delay condonation application has been filed by the State Government for condoning the delay in filing the leave to appeal application and appeal. The leave to appeal application and the appeal has been filed along with the delay condonation application against the judgment and order dated 28.03.2001 passed by learned Sessions Judge, Pithoragarh in Session Trial No.46 of 1999, State Vs. Gaurab Sharma, whereby the learned Sessions Judge, Pithoragarh has acquitted the respondent under Section 307 Indian Penal Code, 1860. The notice was issued to the respondent on 7.05.2002. The respondent has opposed the delay condonation application and has filed a counter affidavit.

2. I have also perused the delay condonation application supported by an affidavit. There is delay of 312 days in filing the appeal. The delay is not explained by sufficient cause. The day-to-day delay has also not

been explained in the affidavit. It is not mentioned that after passing of the judgment and order dated 28.03.2001, as to when the matter was referred to DGC (Criminal) for opinion. It is also not mentioned in the affidavit as to when the DGC (Criminal) had referred the matter to the Law Department. It is also not mentioned that when the sanction was received from the Law Department. In the counter affidavit filed by the respondent, it is stated that on 21.09.2001, the affidavit of delay condonation application was verified by Oath Commissioner but the appeal was presented on 06.05.2002 before this Court and there is no explanation as to why the appeal was filed after a lapse of about seven & half months. Thus, in this way day-to-day delay has not been explained by sufficient cause.

3. For the reasons stated above, the delay condonation application is devoid of merit and is hereby dismissed. Consequently, the leave to appeal application as well as appeal, both are also dismissed.

**(Dharam Veer, J.)**

**Dated 20.06.2007**
Rajeev Dang